

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

LARKSPUR SCHOOL DISTRICT &
MARIN COUNTY MENTAL HEALTH.

OAH CASE NO. 2009030125

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On March 3, 2009, Student filed a Due Process Hearing Request (complaint), naming Kentfield Elementary School District and Marin County Mental Health as respondents. Student subsequently learned that his parent resided within the Larkspur School District. On June 11, 2009, Student filed a “First Amended” complaint without seeking permission from OAH. The “First Amended” complaint will be construed as a Motion to Amend the complaint to dismiss Kentfield Elementary School District as a party and substitute Larkspur School District. Larkspur School District received notice of the “First Amended” complaint and filed a Notice of Representation with OAH. Neither Larkspur School District nor Marin County Mental Health filed oppositions to the “First Amended” complaint.

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i)(II).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (§1415(f)(1)(B).)

Here, Student has demonstrated good cause to amend the complaint to name the correct school district. The motion is unopposed and a hearing date is not on calendar. Accordingly, the motion to amend will be granted with all applicable timelines for the due process hearing resetting as of the June 11, 2009 filing date.

ORDER

1. The motion to amend the due process complaint is granted.
2. The amended complaint is deemed filed on June 11, 2009 and all applicable timelines are reset as of that date.

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

3. The telephonic trial setting conference that was previously on calendar on June 26, 2009 at 10:30 a.m. shall go forward if not completed at the June 17, 2009 mediation. The parties shall be prepared to discuss mutually agreeable hearing dates and whether a continuance is required. A new scheduling order will issue following the trial setting conference.

4. Kentfield Elementary School District is dismissed as a party.

Dated: June 17, 2009

/s/

RICHARD T. BREEN
Administrative Law Judge
Office of Administrative Hearings